

DOCUMENT RESUME

ED 212 636

SP 019 717

AUTHOR Uhler, Ann
 TITLE Title IX. Physical Educators for Equity. Module 4.
 INSTITUTION Eastern Kentucky Univ., Richmond. Dept. of Physical Education.; Education Development Center, Inc., Newton, Mass. Women's Educational Equity Act Dissemination Center.
 SPONS AGENCY Women's Educational Equity Act Program (ED), Washington, D.C.
 PUB DATE 81
 NOTE 35p.; For related documents, see SP 019 713-720.
 AVAILABLE FROM WEEA Publishing Center, Educational Development Center, 55 Chapel Street, Newton, MA 02160 (Set of 7 modules: \$8.00).

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.
 DESCRIPTORS Ability Grouping; Access to Education; Compliance (Legal); Educational Legislation; Equal Education; *Federal Legislation; Independent Study; Legal Responsibility; *Nondiscriminatory Education; *Physical Education; *Physical Education Facilities; Secondary Education; Sex Discrimination; *Sex Fairness; Student Evaluation; *Teacher Education; Womens Athletics
 IDENTIFIERS *Title IX Education Amendments 1972

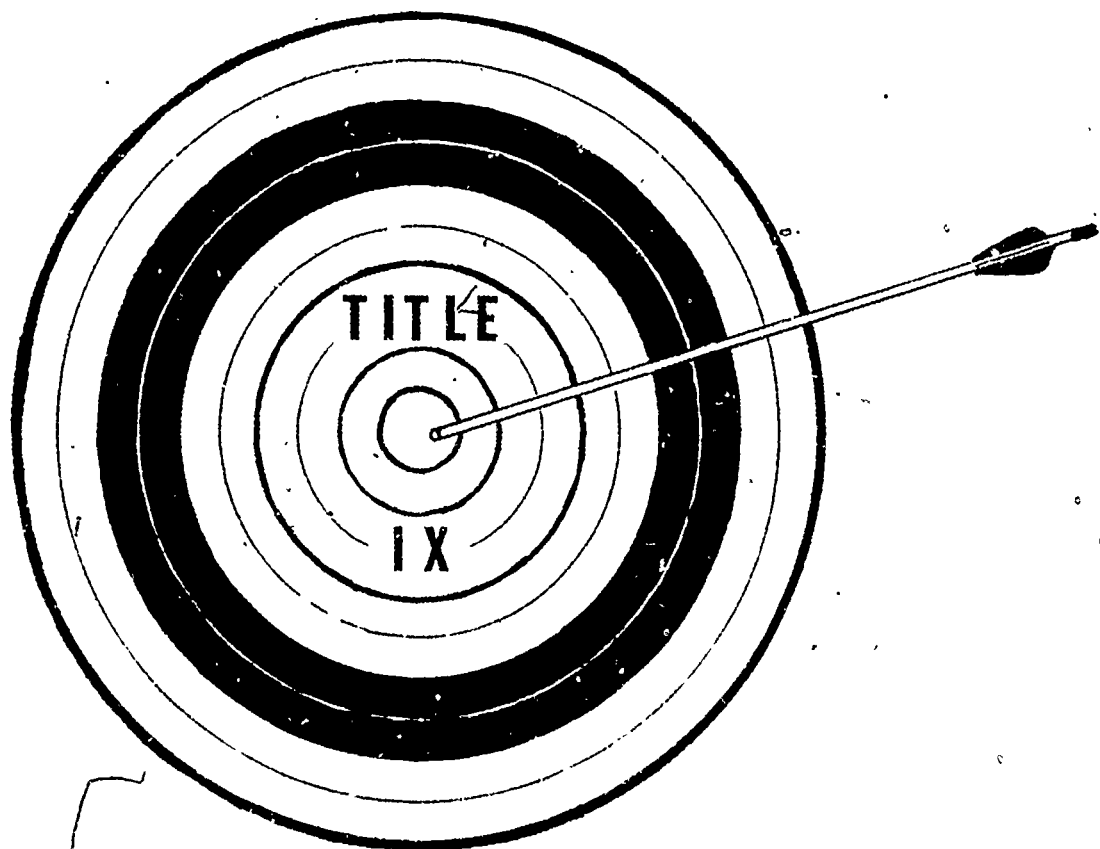
ABSTRACT

This module presents information on the provisions of Public Law 92 318 (Title IX) that affect the teaching of secondary school physical education. Title IX ensures equal educational opportunities for both sexes in any federally assisted educational program. It is designed to enable teachers to identify educational practices inconsistent with the law and to select alternatives for meeting Title IX requirements for these inconsistent situations. Suggestions are also made for methods of initiating enforcement procedures required when violations of Title IX are detected. In this module, five Title IX provisions that have an impact on physical education programs are cited: comparable facilities; access to course offerings; ability groups; grouping for body-contact activities; and evaluation of students. Interpretation exercises are offered covering each of these five provisions. Examples are also presented of five situations in physical education programs that may or may not be in compliance with the law. A discussion is presented on each case, and ways in which the situation may be rectified if it is not in compliance are pointed out. A summary is offered of basic principles interpolated from Title IX regulations that can be applied to physical education programs. A sequence of steps that may be taken to correct situations which are not in compliance with Title IX is suggested. A model letter for filing a complaint under Title IX is appended. (JD)

 * Reproductions supplied by EDRS are the best that can be made *
 * from the original document. *

ED2:2636

Title IX



MICROFILM ONLY

Physical Educators for Equity

HEAR ME, GLEE ALLEN

4

Eastern Kentucky University
Richmond, Kentucky

Women's Educational Equity Act Program
U.S. Department of Education



PHYSICAL EDUCATORS FOR EQUITY

MODULE 4

TITLE IX

Author
Ann Uhler

Project Director
Ann Uhler

Department of Physical Education
Eastern Kentucky University
Richmond, Kentucky

Women's Educational Equity Act Program
U. S. DEPARTMENT OF EDUCATION
Terrel Bell, Secretary

Discrimination Prohibited: No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, or be so treated on the basis of sex under most education programs or activities receiving Federal assistance.

The activity which is the subject of this report was produced under a grant from the U.S. Department of Education, under the auspices of the Women's Educational Equity Act. Opinions expressed herein do not necessarily reflect the position or policy of the Department, and no official endorsement should be inferred.

Printed and distributed by The WEEA Publishing Center, 1981,
at Education Development Center, 55 Chapel Street,
Newton, Massachusetts 02160

MODULE 4

CONTENTS

Acknowledgments	iv
Introduction	v
Objectives	vi
Introduction to Title IX	1
Title IX Interpretation Exercises	3
Example: Comparable Facilities	3
Exercise 1	4
Exercise 2	6
Example: Access to Course Offerings	7
Exercise 3	8
Exercise 4	9
Example: Ability Grouping	10
Exercise 5	11
Exercise 6	12
Example: Grouping for Body-Contact Activities	13
Exercise 7	14
Exercise 8	15
Example: Evaluation	16
Exercise 9	17
Exercise 10	18
The Sky Is the Limit: A Word to the Wise	19
What Else Should You Know About Title IX?	21
Facilities and Equipment Requirements	21
Employment Requirements	21
Action for Change	23
References	25
Appendix: Model Letter for Filing a Complaint Under Title IX	27

Directions for module use: Read the module, following the instructions given throughout. At any time you may refer to preceding pages.

ACKNOWLEDGMENTS

Development of Modules 1-7 in their revised forms is the result of the professional contributions of many people. Appreciation is extended to all those who played a role in this unique effort to reduce sex bias in secondary physical education instruction and program operation.

The services of Agnes Chrietzberg, assessment specialist, were invaluable in all phases of the project, from conception to completion. Mary Neikirk, curriculum specialist, spearheaded the preparation of all modules and contributed enormously to the research and writing. Mary Dee Leslie, validation coordinator, assisted with many aspects of module development and validation. Gratitude is expressed to Peggy Stanaland, Harold Holmes, Geraldine Polvino, Dorothy Kirkpatrick, and Richard Lee Gentry for their assistance in module development and/or field testing. Carrie Haag was indispensable in her assistance with module development, cover designs, and manuscript preparation. Persons who served as validation subjects and those interviewed for module content selection deserve a particular word of thanks. Nancy Ferrell, illustrator; Darlene Ogden, instructional materials technologist; and Theresa Snow, graphic artist, offered specialized skills essential to the preparation of the materials. Linda Bain, Carol Stamm, and Marilyn LaPlante merit recognition for sharing their expertise as consultants in the areas of curriculum and assessment. Appreciation is extended to Carolyn Siegel, Reda Wolfenbarger, and Linda Holt for typing various drafts of the modules. For general assistance with a variety of assignments related to the project, Kristine Freck, Mary K. Oxborne, and Becky Baker are acknowledged.

A special thank-you goes to colleagues around the country who assisted with the development and validation of the modules. The eight consultants who provided critical comments on the first draft of the modules were Dean Austin, Richard Jones, Doug Knox, Lois Kruger, Barb Landers, Diane O'Brien, Pauline Rossman, and Mike Swain. The seven national site coordinators who collected data for module validation were Wanda Buckley, Claire Combs, Fran Hermance, Joe Kohlmaier, Janet Koontz, Virginia Peters, and Judie Uhlir.

To all those who have supported this effort in many ways and especially the professionals who have worked toward a better understanding of the physical education needs of both women and men, special thanks and respect.

INTRODUCTION

This module is one of seven which are to be used as a self-study program. The modules are designed to promote the elimination of sex-role stereotyping and sex discrimination in secondary school physical education classes.

Each module contains written materials, illustrations, and learning exercises with directions for their use. At the end of each module, references are cited and resources for further study are provided. Completing each module will take a maximum of one hour, except for Module 1, which can be finished in less than one-half hour.

The content of the modules is as follows:

- Module 1: Introduction to stereotyping and discrimination
- Module 2: Sex-role stereotyping and its effects
- Module 3: Biological sex differences
- Module 4: Title IX
- Module 5: Curriculum development
- Module 6: Teacher behavior
- Module 7: Student performance evaluation

In these modules, material which is quoted or drawn from a specific source is indicated by a reference in the text, such as (5) or (3, p. 113), corresponding to the numbered list of references at the end of each module.

Note: Throughout the modules, female high school students are referred to as girls and male high school students as boys. This is consistent with the designations used by professional organizations and associations which govern and promote various sports. However, it is recognized that in many parts of the country these students are referred to as women and men. Readers are encouraged to substitute the appropriate terms as necessary.

OBJECTIVES

Upon completion of this module, you will be able to:

1. Recognize provisions of Title IX that bear upon the teaching of secondary physical education.
2. Identify educational practices inconsistent with Title IX provisions.
3. Select alternatives for meeting Title IX requirements for situations identified as being noncompliant.
4. Initiate enforcement procedures required when violations of Title IX are indicated.

INTRODUCTION TO TITLE IX

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program receiving Federal financial assistance.

--Title IX of the Education
Amendments of 1972, Public
Law 92-318

Clearly the most far-reaching piece of legislation with regard to the number of persons protected, Title IX extends its coverage to all students, professional staff, and support staff in those schools of the United States which receive federal aid. This civil rights law declares that sex discrimination in federally assisted programs is against the law.

A great deal of the difficulty in attempting to comply with the law relates to the schools' obligations in the area of physical education and sports. Therefore, there are some who fail to recognize the comprehensiveness of Title IX as it applies to all of education. Barb Lunders, Director of Sex Equity for California, reports that the portion of the Title IX regulations dealing with sports and athletics accounts for 60 percent of the complaints filed in California.

The intent of Title IX is simple. Opportunities for girls and boys, women and men--all persons associated with schools--must be available to both sexes. Both sexes are entitled to the benefits and services and the chances to learn, grow, develop, and become what they are capable of being, on an equal basis, within the limitations of the total school resources. Each individual can expect to have the right of access to programs, employment, and opportunity without question.

Quoted below are the portions of the law that bear particularly on secondary school physical education. These extracts are in the original language of the Final Title IX Regulation Implementing Education Amendments of 1972 Prohibiting Sex Discrimination in Education, effective July 21, 1975.

§86.33 Comparable facilities

A recipient may provide separate toilet, locker-room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

§86.34 Access to course offerings

A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, . . .

- (a) . . . With respect to physical education classes and activities at the secondary and post-secondary levels, the recipient shall comply fully with this section as expeditiously as possible but in no event later than three years [by July 21, 1978] from the effective date of this regulation.
- (b) This section does not prohibit grouping of students in physical education classes and activities by ability assessed by objective standards of individual performance developed and applied without regard to sex.
- (c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.
- (d) Where use of a single standard of measuring skill or progress in [a] physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have such effect

Another section, §86.41, Athletics, though closely related to concerns of physical educators, is beyond the scope of this module.

With such limited references to physical education within the regulations (hereafter, the Final Title IX Regulation Implementing Education Amendments of 1972 Prohibiting Sex Discrimination in Education will be referred to as the regulations) and with such open-ended statements as appear in §86.34, it is not surprising that the meaning of the law has been interpreted variously. The intent of the law is clear. Sex is not a factor to be considered when a school is providing program, opportunity, and educational benefits; to do so in such a way that any person because of sex is denied benefits or excluded from participation is against the law. Full compliance was required by July 21, 1978, three years after the regulations became effective.

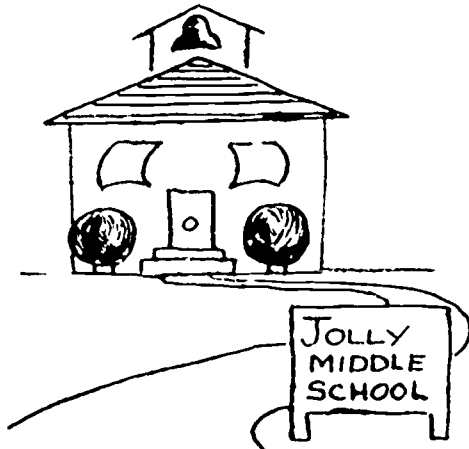
TITLE IX INTERPRETATION EXERCISES

In this section, five examples are presented which apply the provisions of Title IX to the following:

1. Comparable facilities
2. Access to course offerings
3. Ability grouping
4. Grouping for body-contact activities
5. Evaluation

In each example, there are two situations for you to analyze. Read the example first. Note especially the analysis of the case offered. Then read through each exercise and mark responses as directed at the end of the case description. These responses are designed to assist you with the analysis of each case.

EXAMPLE: COMPARABLE FACILITIES



Jolly Middle School has a locker room for boys and a locker room for girls. The school is 52 percent female and 48 percent male. The locker rooms are equipped as follows:

<u>Boys' Locker Room</u>	<u>Girls' Locker Room</u>
200 lockers	210 lockers
5 gang showers (4 shower heads each)	20 private shower stalls
4 toilets	8 toilets
4 urinals	12 hairdryers

Q. Is Jolly Middle School in compliance with the regulations?

A. No.

Q. Why?

A. Facilities provided for students of one sex are not comparable to the facilities provided for students of the other sex.

Q. Must, therefore, both locker rooms have the same fixtures?

A. No.

Q. What can be done to ensure compliance in this situation?

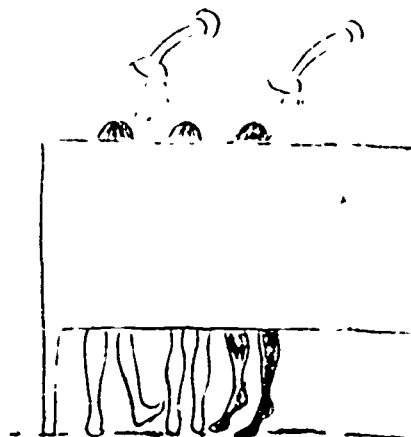
A. The number of lockers is approximately proportionate to the number of boys and girls, if the school enrollment approximates the national percentages of 48 percent male and 52 percent female. Therefore, the number of lockers is not a problem.

The assumption that boys do not mind bathing in a group while girls do (as indicated by the gang showers versus private shower stalls) is based on a stereotyped idea that somehow boys have less need for privacy than girls do. The assumption that boys do not need to dry their hair while girls do is further related to a stereotyped notion that boys have short hair and girls, long. Both of these concepts are based on sex-role stereotypes and result in facilities that are not comparable. The solution would be to provide private shower stalls and hairdryers for boys in order that both boys and girls have facilities which accommodate individual privacy needs and hairstyles.

The combination of urinals and toilets in the boys' locker room is equivalent to the toilets alone in the girls' locker room. Boys and girls need not be provided with identical toilet facilities so long as what is provided is appropriate for the real (not stereotyped) differences in sex.

EXERCISE 1

Mary Howard Senior High School has two locker rooms for boys and one locker room for girls: Locker Room X for boys, Locker Room Y for boys (previously a girls' locker room), and Locker Room Z for girls (built in order to accommodate the expanded school enrollment). The locker rooms are equipped as follows:



<u>Boys' Locker Room X</u>	<u>Boys' Locker Room Y</u>	<u>Girls' Locker Room Z</u>
200 storage lockers*	200 storage lockers*	400 basket lockers** 80 dressing lockers**
3 gang showers (4 shower heads each)	10 private shower stalls	3 gang showers (4 shower heads each)
4 urinals	6 toilets	12 toilets
4 toilets	12 hairdryers	12 hairdryers

Consider the following choices. Mark all that apply.

1. Mary Howard Senior High School is in compliance with the regulations.
2. Mary Howard Senior High School is not in compliance with the regulations, because:
 - a. There are two locker rooms for boys and there is only one locker room for girls.
 - b. There are basket lockers available for storage only in the girls' locker room, whereas the boys have storage lockers.
 - c. Boys have no urinals in Locker Room Y and no hairdryers or private shower stalls in Locker Room X.

Read each choice below which corresponds with a response you recorded.

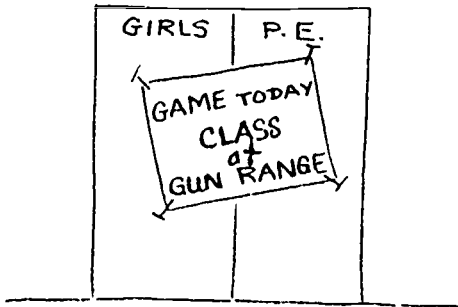
1. If you responded to this choice, you have made the correct analysis. Continue to Exercise 2.
- 2a. The simple fact that there are two locker rooms for one sex and that there is only one for the other sex does not mean facilities are not comparable. Assuming there is no difference in accessibility or convenience, the two facilities for boys approximate in other ways the equivalent of one locker room for girls. There is no violation in this situation.
- 2b. The storage of clothing in basket lockers versus the storage of clothing in storage lockers does not mean that one system is better than the other. As long as there is adequate storage for the needs of both sexes, there is no requirement that the systems be identical, only comparable. There is no violation in this situation.
- 2c. Though there are no urinals in Locker Room Y, and no hairdryers or private shower stalls in Locker Room X, presumably both hairdryers and private shower stalls are available to boys. There is no violation in this situation.

*Storage lockers are lockers assigned to students for the duration of the course for the purpose of housing gymwear between classes and street clothes during class.

**Basket lockers are small storage lockers adequate for storing gymwear between classes. Dressing lockers are used to store street clothes, coats, books, etc., during class only.

EXERCISE 2

JILL and JACK HIGH



At Jill and Jack High School, there are separate boys' locker rooms for athletic teams and for regular physical education classes. Girls, however, share one locker room between their physical education classes and their athletic teams. The girls' locker room is about the size of the two boys' locker rooms combined. On home-game days, the girls' locker room is used by teams involved in the interscholastic contests. Sixth-period physical educa-

tion classes, therefore, substitute forms of learning experiences that do not require clothing changes.

Consider the following choices. Mark all that apply.

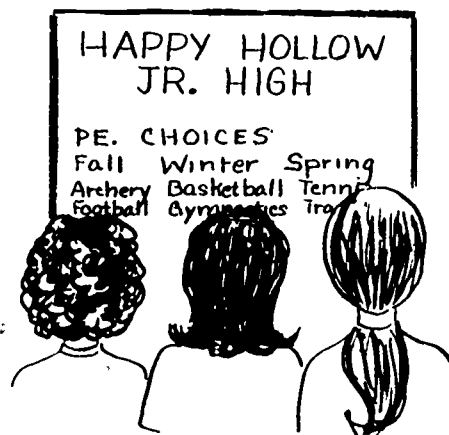
1. Jill and Jack High School is in compliance with the regulations.
2. Jill and Jack High School is not in compliance with the regulations, because:
 - a. There are two locker rooms for boys and there is only one locker room for girls.
 - b. Physical education classes are forced to change plans on home-game days and valuable class learning experience in a vigorous activity setting is sacrificed.

Read each choice below which corresponds with a response you recorded.

1. If you responded to this choice, you have made the correct analysis. Read 2b before continuing to the next example.
- 2a. The simple fact that there are two locker rooms for one sex and that there is only one for the other sex does not mean that facilities are not comparable. The two facilities for boys approximates in other ways the equivalent of one locker room for girls. There is no violation in this situation. Read 2b before continuing to the next example.
- 2b. The fact that physical education classes are being denied learning opportunities at the expense of interscholastic programs is not in itself a violation of the law. Presumably, both girls and boys are involved in classes requiring the use of the girls' locker room. If, however, boys were permitted to continue with activity of the usual sort on these home-game days while only girls were involved in the altered arrangements, there would indeed be a violation of the regulations. There is no violation in this situation as described.

EXAMPLE: ACCESS TO COURSE OFFERINGS

Happy Hollow Junior High School offers a physical education curriculum that includes a broad range of activity choices. All activities offered to both boys and girls are coeducational. Three different activities are offered to boys and to girls each season (fall, winter, spring) and at least two of the offerings are designated for each sex. Therefore, students may elect to participate in all coeducational classes if they so choose. Likewise, they may select only single-sex classes if they so choose. Below are the offerings.



	<u>Fall</u>	<u>Winter</u>	<u>Spring</u>
Boys	flag football folk dance archery	basketball gymnastics wrestling	track and field tennis lacrosse
Girls	field hockey folk dance archery	basketball gymnastics volleyball	track and field tennis modern dance

Q. Is Happy Hollow Junior High School in compliance with the regulations?

A. No.

Q. Why?

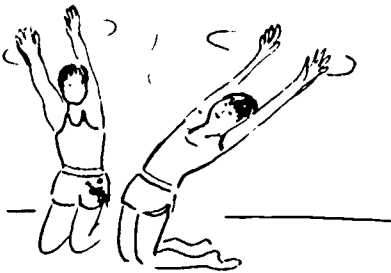
A. Some courses offered are provided separately on the basis of sex.

Q. Must all activities be offered to both boys and girls?

A. Yes. Title IX states in the regulations that "a recipient [in this case, Happy Hollow Junior High School] shall not provide any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis." The notion that some activities (football, wrestling, lacrosse) are more appropriate for boys than for girls or that some (field hockey, volleyball, modern dance) are more appropriate for girls than for boys is tied to traditions that reinforce sex-role stereotyping. Such restrictions on educational options may limit

access to opportunity and restrict the development of some qualities and abilities. To ensure the development of the fullest range of talent of all young people, Title IX prohibits the predetermined selection of certain learnings for boys and other learnings for girls. The fact that girls cannot select some activities and boys are prohibited from choosing other activities denies opportunities to learn from both sexes.

EXERCISE 3



Urban Central Senior High School offers a class in weight training for girls to overcome the effects of low-strength demands in their earlier physical education experience. The object is to help them "catch up" with boys. A comparable experience in beginning movement is provided for boys who have no dance background. The purpose is to provide boys with the benefits of improved flexibility, which previous experience in team sports did not emphasize.

Consider the following choices. Mark all that apply.

1. Urban Central Senior High School is in compliance with the regulations.
2. Urban Central Senior High School is not in compliance with the regulations, because:
 - a. Boys are not permitted to take weight training and girls are not permitted to take beginning movement.
 - b. There are no boys in the weight-training class and no girls in the beginning-movement class.

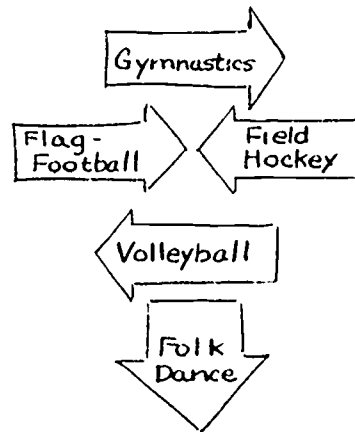
Read each choice below which corresponds with a response you recorded.

1. Urban Central High School is in violation of Title IX regulations because there are sex-segregated classes. Classes cannot be designated on the basis of sex. The more appropriate offering would be to provide weight training for both boys and girls who need further strength development, as well as to provide beginning movement to boys and girls who need further development of movement skills and abilities. There would be underdeveloped members of both sexes in both areas. If, however, one class enrolled only males or only females through an elective system, there would be no violation.

- 2a. If you responded to this choice you have made the correct analysis. Continue to Exercise 4.
- 2b. The fact that there are no boys in a given class or no girls in another class does not in and of itself constitute a violation of Title IX, so long as boys and girls receive equal counseling and support for the choice of either course. If members of one sex choose not to select one course option, there is no failure to comply with the law.

EXERCISE 4

Hill and Dale High School offers physical education to all ninth graders on a daily basis for one semester. One hundred twenty girls and one hundred boys are in the ninth grade, with approximately one-fifth of the students of each sex enrolled in physical education during each of the five class periods of the day.



Dick Jones and Jane Adams teach approximately forty-four students each hour. The curriculum they have planned for the first semester includes (a) four weeks of flag football/field hockey, (b) four weeks of volleyball, (c) four weeks of gymnastics, and (d) four weeks of folk dance. During the first four weeks, students are allowed to choose either of the two activities offered. Dick teaches flag football, and Jane, field hockey. During the second four weeks, students are grouped by ability for volleyball. Jane teaches the more advanced group, and Dick, the beginners, in accordance with their own expertise in the sport. During the third four weeks, seven gymnastics stations are provided for instruction: high bar, uneven parallel bars, still rings, balance beam, vaulting, trampoline, and free exercise. Students are requested to select four of these events; girls and boys choose freely among the seven alternatives. Dick teaches at three stations and Jane at four. Students are not grouped by ability. During the last four weeks, boys and girls participate as a single group, and Dick is the primary instructor, with Jane assisting.

Consider the following choices. Mark all that apply.

1. Hill and Dale High School is in compliance with the regulations.
2. Hill and Dale High School is not in compliance with the regulations, because:

- a. Not all activities are coeducational.
- b. Girls can avoid the traditionally male options of flag football and gymnastics events requiring great upper-body strength, while boys are forced to take traditionally female activities like folk dance.
- c. The teaching assignments are not exactly equal.

Read each choice below which corresponds with a response you recorded.

- 1. Hill and Dale High School has developed a broad representative program of activities accommodating the interests and skill ranges of many persons and is in compliance. Their efforts to interest boys and girls in traditionally female/male activities is evident. The division of teaching assignments made in accordance with teacher abilities is sound and meets the intent of the regulations.
- 2a. The activities offered have the potential of being coeducational. If some activities are not chosen (when options exist) by members of one sex or the other, there is no inherent violation. Read 1 above.
- 2b. Girls can continue to choose field hockey and the traditionally female gymnastics events (unevens, balance beam). Boys can choose flag football, still rings, and uneven parallel bars. However, the opportunity exists for both sexes to choose beyond the limitations of tradition. Girls may choose strength events; boys with non-gymnastic somatotypes may be more comfortable with options not requiring great upper-body strength. These alternatives provide a better range of learning experiences for both boys and girls according to their interests and abilities. Read 1 above.
- 2c. The teaching assignments of Dick and Jane are in accordance with their experience. Both are fully assigned at all times. The important consideration is that both Dick and Jane have responsibilities for primary leadership and assume role models that display competence for students. The exact matching of intra-class duties is not required. Read 1 above.

EXAMPLE: ABILITY GROUPING

Sun Valley Senior High School has a physical education unit for first-year students. The AAHPER Test is used for classification purposes for this unit. Each hour, approximately one hundred students are tested. Boys and girls are tested on sit-ups, shuttle run, standing long jump, 50-yard dash, and 400-yard run. Boys are tested on pull-ups while girls are tested on flexed-arm hang. AAHPER percentile scores based on age/test scores combined for boys and girls are used for assignment to one of three sections. Each student's mean percentile becomes the criterion, with the top thirty-three students in one group, the next thirty-three in the middle group, and the lowest thirty-four in a third group. Activities are conducted based on the needs of these three groups. One instructor is assigned to each of the groups.

Q. Is Sun Valley Senior High School in compliance with the regulations?

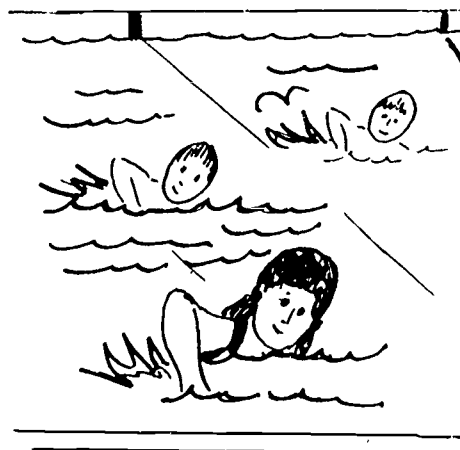
A. Yes.

Q. But would not the first group be composed primarily of boys, since the mean percentiles of boys exceed the combined mean percentiles of boys and girls--giving boys who are in lower percentile groups higher percentiles, while having the opposite effect on girls?

A. It is true that boys outperform girls on all six of the tests at the age levels for high school students. The 50th percentile for boys always shows a better performance than that for girls. When scores of girls and boys are combined, the boy with a percentile of 50 moves to a higher percentile; the girl with a percentile of 50 moves to a lower percentile. The top group could in some instances include a great majority of boys. However, the regulations state that it is not a violation to group "students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex." Presumably, homogeneous grouping would be desirable for helping all students continue to develop their abilities. That learning environment would particularly enhance the development of boys with low scores and girls with high scores, while providing all groups with the greatest degree of similarity in the instructional activities intended.

EXERCISE 5

Liberty High School provides a fourth-year elective physical education class in competitive swimming. Students are admitted to the class based on their swimming speeds for 50 yards "free style." Space in the class is limited to the twenty students who achieve the best speeds among those who apply for admission to the class.



Consider the following choices. Mark all that apply.

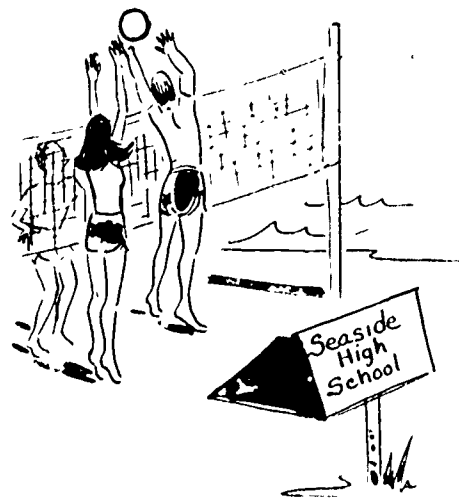
1. Liberty High School is in compliance with the regulations.
2. Liberty High School is not in compliance with the regulations, because:
 - a. Space in the class is limited to twenty students.
 - b. Grouping of students is not done within the class.
 - c. The class is elective and therefore exempt from the regulations.

Read each choice below which corresponds with a response you recorded.

1. Liberty High School is not in compliance with the regulations. Mean swimming speeds for girls are slower than mean swimming speeds for boys. The process of gaining admission to the competitive swimming class is such that girls will be expected to achieve a higher performance for admission. The result would lead to more opportunities for boys than girls to enroll in the class. The regulations provide for an exception in grouping within the class, but the intent of the section dealing with access to course offerings clearly calls for provisions of opportunity in any course for both boys and girls.
- 2a. The regulations do not require that classes have unlimited enrollments. However, classes that are available must be offered in such a way that both boys and girls have access without being refused participation because of sex. Read 2b below.
- 2b. The essence of the violation is due to the fact that girls (because of their average sex difference in swimming speed) are excluded before admission; further grouping within the class (a provision allowed within the regulations) is not done.
- 2c. The fact that the class is elective in no way allows the regulations to be set aside. Read 2b above.

EXERCISE 6

Seaside Senior High School has beach volleyball as part of its many course offerings in physical education. Students at Seaside elect to take a total of eight activities in physical education, and these courses (activities) may be taken at any point in the three years of enrollment. Students who enroll in beach volleyball are subgrouped into two sections for instruction. Scores on the standing vertical jump and the AAHPER Volleying Test are used to gain information for classifying students: Students scoring above the 60th percentile for their sex on both tests are placed in one section, and all other students are placed in the other section.



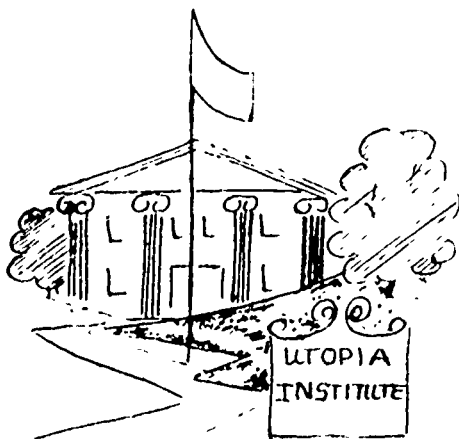
Consider the following choices. Mark all that apply.

1. Seaside Senior High School is in compliance with the regulations.
2. Seaside Senior High School is not in compliance with the regulations, because:
 - a. Different standards are used for boys and girls, giving an advantage to the girls.
 - b. The tests used measure abilities which represent real sex differences and thus give an advantage to the boys.

Read each choice below which corresponds with a response you recorded.

1. Seaside Senior High School has chosen to attempt to have boys and girls in both sections in approximately equal numbers. This is in compliance. There is no requirement that students must be grouped in class by ability. The result is that the better boys and the better girls are placed in one group.
- 2a. Although different standards are used for grouping within the class, which in effect means that some girls having less ability than some boys will end up in the better group, there is no obligation to keep boys and girls in both groups in approximately equal numbers. The better performers among both boys and girls will be in the same group.
- 2b. It is true that the standing vertical jump measures performance difference that is sex differentiated. It would be a violation to use that measure for the purposes of measuring skills or progress, but there is no provision that excludes using such measures for instructional purposes. The intention of the testing is to divide the class into two groups, each of approximately equal numbers of girls and boys, with as much skill consideration as possible.

EXAMPLE: GROUPING FOR BODY-CONTACT ACTIVITIES



Utopia Institute is a coeducational, twelve-grade institute which receives federal financial assistance through a variety of programs. Utopia offers physical education programs at all grade levels. The program is planned so that at each hour one physical education class is offered to ninth-grade students. Activities include basketball, football, and wrestling.

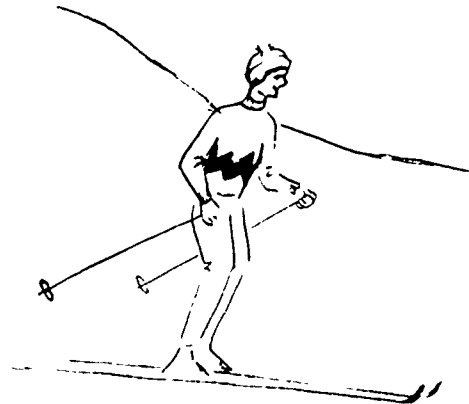
Coeducational classes are conducted in such a manner that students participate together only when no possibility for bodily contact exists. Since the instruction is more general (instruction of the activity as a whole) than specific (instruction of the activity in skill sequences), bodily contact could occur in all but a few learning activities. For all practical purposes, students are rarely on the same court, field, or mat with members of the opposite sex.

Q. Is Utopia Institute in compliance with the regulations?

A. Yes. The regulations say that "separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact . . ." is not prohibited. The regulations do not, however, require separation. Since it is not prohibited, separation is allowed.

EXERCISE 7

Summit Trail Senior High School has a ski team for boys. There is no ski team for girls. However, the interscholastic sports program accommodates the interests and abilities of members of both sexes. Boys participating in Summit Trail's ski team receive physical education credit for their experience and are therefore exempted from physical education during one semester. Participants in other interscholastic sports do not receive physical education credit.



Consider the following choices. Mark all that apply.

1. Summit Trail Senior High is in compliance with the regulations.
2. Summit Trail Senior High is not in compliance with the regulations, because:
 - a. Girls do not have an interscholastic ski team.
 - b. Girls are not given an opportunity to earn physical education credit through participating in skiing.

Read each choice below which corresponds with a response you recorded.

1. Summit Trail Senior High School is not in compliance with the regulations. Read 2b below.
- 2a. The fact the girls do not have an interscholastic ski team is not a violation. Since this module deals with physical education only, not athletics, it is recommended that the user refer to §86.41 of the regulations. In general, "the selection of sports and levels of competition [must] effectively accommodate the interests and abilities of members of both sexes." Read 2b below.
- 2b. Skiing as a competitive sport is an opportunity denied to girls. That fact alone would not be a violation, so long as equivalent opportunities corresponding with interests and abilities were available (see §86.41 of the regulations). However, because skiing becomes a part of the physical education curriculum by virtue of the credit assigned to those students participating in the program, then, in fact, a part of the physical education program is being carried out separately on the basis of sex. This is a violation.

EXERCISE 8

Merrywood Middle School has a daily physical education program for students in all three grades. Girls and boys have three years of coeducational classes. Because the boys and girls vary so in size and ability, both within their sex and between sexes, the decision was made to organize all instruction under one teacher per class. The program includes a broad range of dance, aquatic, gymnastic, individual, and team-sports activities.

Consider the following choices. Mark all that apply.

1. Merrywood Middle School is in compliance with the regulations.
2. Merrywood Middle School is not in compliance with the regulations, because:
 - a. Students are not separated by sex within physical education classes in team sports involving bodily contact.
 - b. Students are not grouped by ability as assessed by objective standards of individual performance.

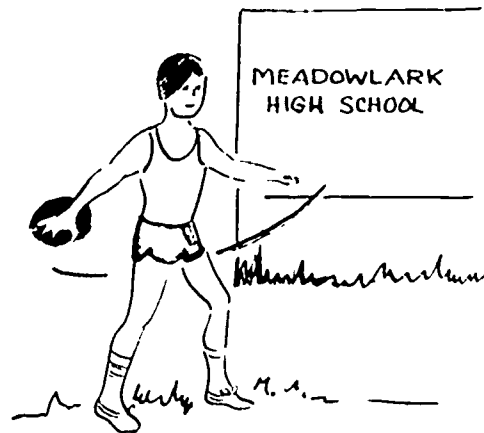
Read each choice below which corresponds with a response you recorded.

1. Merrywood Middle School is in compliance. Although it would seem not to be in the best interests of instruction to have such a wide range of students within a given class, the law does not prohibit this form of organization. This solution, while providing an acceptable answer in terms of the law, fails to address the real problems of quality instruction.

- 2a. The law does not require that classes be separated on the basis of sex when team sports involving bodily contact are presented. The law simply allows this as an alternative. Read 1 at the bottom of the previous page.
- 2b. The law does not require that classes be grouped by ability. It simply does not prohibit grouping of students when the basis for grouping is an objective standard developed and applied without regard to sex. Read 1 at the bottom of the previous page.

EXAMPLE: EVALUATION

Meadowlark High School considers physical education an integral part of the secondary school curriculum. The grading procedure used for determining achievement in all subject areas attempts to consider only performance abilities. Such qualities as effort, progress, and personal growth are reported in a separate evaluation process. Therefore, in physical education, only actual performance (both in terms of physical performance and conceptual comprehension) is used for grading.



The first six weeks' grading period in a tenth-grade class in track is based on a point system. Each student is tested on five events of his/her choosing. The instructors use a point system based on norms established over several years of use with all tenth-grade students at Meadowlark. The student, according to performance of each chosen event, is given a point score between 1 and 20; for example, the mile run completed under 6 minutes is worth 20 points. The scores for the five events are added to give a total score. The track-and-field grade is based only on this total score.

Q. Is Meadowlark in compliance with the regulations?

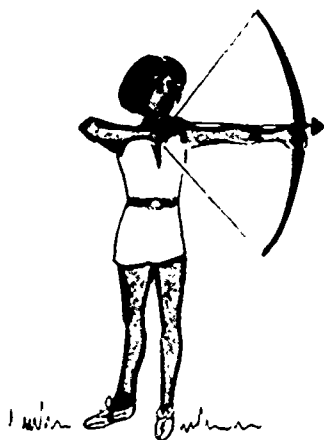
A. No.

Q. Why?

A. The single set of norms would favor boys at the tenth-grade level. Boys throw farther, run faster, and jump higher than girls because of real sex differences. The grades for girls would be lower than the grades for boys. The regulations state: "Where use of a single standard of measuring skill or progress has an adverse effect on members of one sex, the recipient [Meadowlark High School] shall use appropriate standards which do not have such an effect."

- Q. What can be done to correct the situation so that grades can be awarded that are consistent with the school's evaluation policy and in compliance with the regulations?
- A. Norms for girls in each of the events should be constructed separately from norms for boys. Points for girls comparable to those for boys can be awarded for various levels of achievement in the events. Then, the total of all points could be used for grading purposes. Girls and boys would be graded on achievement (school policy), yet there would be no adverse effect on members of one sex (Title IX regulations).

EXERCISE 9



Summerfield Senior High School has an elective physical education program for all students. No credits are required in physical education for graduation from high school. A class in archery is offered for a half-credit, and all interested students may enroll. Grading for the class is based on a score derived from the sum of 24 arrows shot from 30 yards, 20 yards, and 15 yards. No attempt is made to differentiate between boys and girls in assigning grades to these scores.

Consider the following choices. Mark all that apply.

1. Summerfield High School is in compliance with the regulations.
2. Summerfield High School is not in compliance with the regulations, because:
 - a. A single standard of measuring skill in physical education is used.
 - b. The method used for evaluating skill in archery favors boys.

Read each choice below which corresponds with a response you recorded.

1. Summerfield Senior High School is in compliance. There would seem to be no real sex differences in ability to shoot with accuracy at short distances. Therefore, there is no need to differentiate between boys and girls for the purposes of grading.
- 2a. The single standard of measuring skill is appropriate because there is no real sex difference in archery-shooting ability at short distances. Read 1 above.
- 2b. The method used for evaluating archery does not favor either sex.

EXERCISE 10

Park Place Senior High School offers an advanced class in tennis. Enrollment is limited to those students who have completed a beginning class and finished above the middle on a class ladder tournament. In the beginning class, all students were placed on one ladder.

Consider the following choices. Mark all that apply.

1. Park Place Senior High School is in compliance with the regulations.
2. Park Place Senior High School is not in compliance with the regulations, because:
 - a. The beginning tennis class tournament does not take into account the real sex differences which could give an advantage to boys.
 - b. The beginning tennis class that is used as a prerequisite disallows enrollment by students who may have equivalent skills but chose not to enroll in the beginning class.

Read each choice below which corresponds with a response you recorded.

1. Park Place Senior High School is not in compliance with the regulations, because the standard used for measuring skill "has an adverse effect on members of one sex." The ladder tournament, an appropriate instructional pairing technique for encouraging participation by individuals of approximately equal ability, has the effect of ranking all individuals by ability. The upper half in any typical group would include more boys than girls, since males would have a higher mean achievement level than females. The result would be that more boys than girls would be admitted to the advanced tennis class.
- 2a. The class ladder tournament could place significantly more boys than girls in the advanced class. The ladder ranks students. Tennis-playing ability, even among beginners, is dependent upon strength, a sex-differentiated characteristic.
- 2b. The method of admitting students to the advanced class does lack credibility, in the sense that students who may be advanced players would be ineligible due to the selection procedure. The regulations do not address this subject and therefore neither support nor prohibit an institution from utilizing this unsound procedure.

THE SKY IS THE LIMIT: A WORD TO THE WISE

Application of Title IX regulations to physical education programs provides both a challenge and an opportunity to the secondary school physical education teacher. The implementation of the spirit and intent of the law requires a commitment to educational equity in physical education as well as a willingness to disband traditional stereotyped programs in favor of new and creative coeducational instructional approaches. There is no single approved method. Within the next decade, it is anticipated that a variety of experimental programs will be tested and found to be both consistent with Title IX and supported by sound educational theory.

One key to useful application of the principles inherent in the regulations is to think in terms of what is possible. Expansion of program opportunity for both boys and girls is a far better concept than reduction of program alternatives. The temptation to eliminate programs because we have been socialized to believe they are inappropriate--for whatever reasons--for one sex or the other should be resisted. The time has come for boys to be given opportunities to develop artistic, creative and graceful movements associated with modern dance, synchronized swimming or ballet; for girls to prepare for experiences involving physical impact which are fundamental to the martial arts or wrestling; for girls to seek risk-taking experiences for the opportunity that accompanies risk--through rappelling, rock-climbing, and adventure curriculum activities; and for boys to know that participation in non-aggressive, non-competitive fitness activities like jogging, disco dance, canoeing, or skating are as appropriate and beneficial to their health and self-fulfillment as are the traditional male sports.

Coeducational programming provides a realistic, lifelike laboratory in which young people can develop their total range of abilities along the lines of their specific aptitudes. New variations on traditional sports will emerge as boys and girls participating together cause us to discover better games for coeducational play. As members of each sex associate to a greater extent with members of the other sex in physical education classes, an increasing awareness and appreciation for the intra-sex differences, as well as for the inter-sex similarities, will help eradicate the stifling stereotypes that have restricted opportunities for all. With Title IX, the sky is the limit.

WHAT ELSE SHOULD YOU KNOW ABOUT TITLE IX?

Only in a few specific situations in this module do the Title IX regulations refer directly to physical education. There are, however, some other basic principles interpolated from the regulations that can be applied to this education program. The list that follows represents a summary of the most frequently expressed interpretations of how Title IX affects teaching and program operation in physical education.

FACILITIES AND EQUIPMENT REQUIREMENTS

1. Facilities must be made available without regard to the sex of students and instructors.
2. Equipment must be distributed in such a way that the quality and quantity of instructional equipment are comparable for both sexes.
3. Facilities must be scheduled in such a way that because of student interest or ability, students of one sex do not have greater access or better conditions than students of the other sex have.

EMPLOYMENT REQUIREMENTS

1. Teaching assignments must be made on the basis of qualifications for the position and not on the basis of sex.
2. Salary determinations must be based on the employee's credentials and services rendered and not on the basis of sex.
3. Extra earning opportunities must be equally available to members of both sexes.
4. Extra earning compensation to men and women must be free from any differentiation on the basis of sex.
5. Promotion, tenure, and leave policies must be free from all sex-biased criteria.
6. Only if sex is a bona fide occupational qualification for the position (e.g., locker-room attendant or restroom attendant), may it be considered as a criterion for employment.

ACTION FOR CHANGE

The concepts studied in this module may suggest some areas in which change could benefit students in such a way that better educational opportunity would be provided without regard to sex. If the teacher believes that her/his school is not fully in compliance with Title IX, there may be some appropriate actions that can be taken to correct the situation. The following steps are suggested as a sequence:

1. Evaluate the situation. Attempt to gather as much information as possible about the specific problem as you see it. Try to learn about the background leading to the existence of the current situation. Facts and attitudes need to be appraised. Look at all sides of the picture. Be open and objective. As you make judgments based on the information collected, weigh the evidence carefully.
2. Discuss the situation with those responsible. Talk to the people who are directly responsible for the existence of the situation you believe to be not in compliance with Title IX. In many cases, failure is due to a lack of awareness and/or the knowledge required to accomplish compliance. Be prepared to make suggestions for bringing about the desired change. Present the picture objectively and succinctly. Ask for a reasonable plan to bring about change from what is to what ought to be.
3. Consult your Title IX Coordinator. Your school district or system has designated a Title IX Coordinator who is responsible for coordinating efforts to comply with and carry out the regulations. Seek the Title IX Coordinator's assistance in attempting to accomplish the needed change.
4. Consult the legal counsel of your state department of education. Some states have laws which are more comprehensive than Title IX is. Check with the legal counsel of your state department of education to see if the problem you have identified, even if it is in compliance with Title IX, is in violation of state law.
5. File a complaint. When change cannot be wrought by reason, the remaining alternative is to seek assistance from authority. You may do this by directly filing a complaint to the Director, Office for Civil Rights, U.S. Department of Education, Washington, D.C. 20201, or by seeking intervention assistance from an organization like the Women's Equity Action League (WEAL) Educational and Legal Defense Fund, 805 15th Street, N.W., Suite 822, Washington, D.C. 20005. WEAL has prepared a model letter for the purpose of filing a direct complaint (a copy appears in Appendix). WEAL can also file the complaint for you if you are concerned about the chances of retaliation or harassment. The burden of proof for the complaint resides with the U.S. Department of Education, so there is no need to feel that a "closed

case" of supportive facts is a prerequisite to the process. Anyone-- not only those directly affected by the alleged discrimination--can file a complaint. Complaints should be filed only when appropriate efforts have been unsuccessful in accomplishing the necessary change. The complaint procedure is necessarily a longer process, and getting more immediate results is not as likely as it is if the change can be accomplished at the local level.

REFERENCES

1. U.S. Department of Health, Education and Welfare, Office for Civil Rights. Assurance of Compliance with Title IX of the Education Amendments of 1972 and the Regulation Issued by the Department of Health, Education and Welfare in Implementation Thereof (HEW Form 639). July, 1976. Office for Civil Rights, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201. Free.
2. U.S. Department of Health, Education and Welfare, Office for Civil Rights. Final Title IX Regulation Implementing Education Amendments of 1972 Prohibiting Sex Discrimination in Education. June, 1975. Office for Civil Rights, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201. Free.
3. U.S. Department of Health, Education and Welfare, Office for Civil Rights. Memorandum to Chief School Officers, Superintendents, of Local Education Agencies and College and University Presidents [Re] Elimination of Sex Discrimination in Athletic Programs. September, 1975. Office for Civil Rights, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201. Free.
4. U.S. Department of Health, Education and Welfare, Office for Civil Rights, Office of the Secretary. Intercollegiate Athletics: Sex Discrimination. December, 1979.

APPLICATIONS OF TITLE IX TO PHYSICAL EDUCATION

- Blaufarb, Marjorie. Complying with Title IX of the Education Amendments of 1972 in Physical Education and High School Sports Programs. 1976. American Alliance for Health, Physical Education, and Recreation (AAHPER), Publications - Sales, 1201 16th Street, N.W., Washington, D.C. 20036. \$2.00.
- National Organization for Women Legal Defense and Education Fund. Cracking the Glass Slipper: PEER's Guide to Ending Sex Bias in Your Schools. 1977. PEER, The Project on Equal Education Rights, NOW Legal Defense and Education Fund, 1029 Vermont Avenue, N.W., Suite 800, Washington, D.C. 20005. \$3.50.
- Resource Center on Sex Roles in Education. Implementing Title IX in Physical Education and Athletics: An Application Booklet for Physical Activity Personnel. 1978. Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201. Write for price.

Resource Center on Sex Roles in Education. Title IX and Physical Education:
A Compliance Overview. 1976. The National Foundation for the Improve-
ment of Education, 1201 16th Street, N.W., Room 804 E., Washington,
D.C. 20036. \$4.50 prepaid.

Women's Equity Action League (WEAL), Educational and Legal Defense Fund.
Sports Kit. 1977. WEAL Fund Office, 805 15th Street, N.W., Suite 822,
Washington, D.C. 20005. \$4.00.

APPENDIX

MODEL LETTER FOR FILING A COMPLAINT UNDER TITLE IX

Date

Director, Office for Civil Rights
U.S. Department of Education
Washington, D.C. 20201

Dear Director:

I am (We are) hereby filing a complaint of sex discrimination (and race or national origin discrimination, if applicable) against _____ (name and address of the institution). This discrimination violates Title IX of the Education Amendments of 1972 and other applicable laws.*

The name(s) and address(es) of the person(s) filing this complaint is (are)

(The complainant need not be the person discriminated against, and indeed is probably afforded greater protection against possible harassment or retaliation if a group files on behalf of that individual.)

The person (people) hurt by the sex discrimination is (are):

(Fill in the name(s) and address(es) of the person(s) discriminated against if the number is three or fewer people. If there are more than three people, describe them in general--for example, "the part-time faculty members of the College of Arts and Sciences," "the female members of the ski team," or "all the girls in the sixth grade class.")

A description of the sex discrimination I am (we are) complaining about follows:

(Describe what the institution has done that is discriminatory; the approximate dates when the discrimination took place; and whether the discrimination is still continuing. Identify by name any people who were the ones who discriminated and describe their position or relationship to the institution. Describe how the discrimination took place, and provide some details to explain what happened that was discriminatory. If the discrimination is causing an emergency such as the loss of a job, explain the emergency and underline it. Attach some of the evidence you have, such as copies of letters or memoranda which you want to provide. Before the investigation begins, you can submit additional information.)

*Obtain and review the chart of Federal Laws and Regulations Prohibiting Sex Discrimination (see module reference 2). If employment discrimination is involved, other federal, state, and local fair employment laws may also be violated. This letter can be modified to serve as a complaint under Executive Order 11246, Title VII of the 1964 Civil Rights Act, the Equal Pay Act of 1963, or Title VIII of the Public Health Service Act.

I (We) hereby request an immediate investigation of this complaint and notification of the dates it is to take place. I (We) also request copies of all written preliminary findings of the investigation and of the specific facts upon which such findings are based and a copy of all of your agency's correspondence with the institution pertaining to your determination with respect to the complaint as to whether a violation has occurred.

Sincerely,

(Signature)

Name
Address
Telephone Number

(Suggestion: Unless you want to preserve your confidentiality, send copies of your complaint, without the evidence, to persons with influence on eliminating discrimination. It can be useful to show on the complaint that you sent copies as follows.)

cc: Title IX Coordinator and/or Equal Opportunity Officer
U.S. Senators and Representatives from the state or district in which
the institution is located
Governor
Selected state legislators
Campus, state, or local commission on the status of women
State or local human rights commission
Student and faculty governing bodies
Alumni organizations
Organizations and projects like WEAL Fund or PEER
Local chapters of national women's organizations like WEAL and NOW
Women's caucus of the appropriate professional society
Local and/or state newspapers, with a brief press release describing
the action you are taking